

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

United States of America

v.

Rodricka Jermaine Gambrell,

Defendant.

C/A No. 06:06-cr-1094-GRA

ORDER
(Written Opinion)

This matter is before this Court for a ruling on Defendant's Motion for Sentence Reduction, filed July 6, 2007. In his motion, Defendant argues that he is willing to provide assistance to the government in order to reduce his sentence. Defendant also requests the Court to take into consideration various hardships, including the fact that he has an ailing child.

The defendant is proceeding *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Haines v. Kerner*, 404 U.S. 519, 520 (1972).

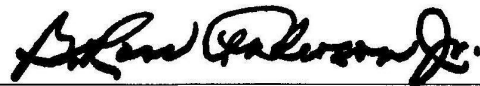
The relief Defendant seeks may only be had pursuant to Federal Rule of Criminal Procedure 35(b), which in relevant part states: "Upon the *government's motion* made within one year of sentencing, the court may reduce a sentence if . . . the defendant,

after sentencing, provided substantial assistance in investigating or prosecuting another person.” Fed. R. Crim P. 35(b) (emphasis added). Plaintiff has no authority to make such a motion on his own behalf. “It is well-settled that whether to file a Rule 35(b) motion is a matter left to the government’s discretion.” *United States v. Wakefield*, 112 Fed.Appx.257, 258 (4th Cir. 2004) (citing *United States v. Dixon*, 998 F.2d 228, 230 (4th Cir. 1993)).

Defendant has failed to make any showing sufficient for the Court to grant relief. Defendant provides no evidence to show that he has offered any substantial assistance to the government. Defendant merely alleges that he is willing to provide such assistance. If the Defendant does in fact provide such assistance and that assistance proves to be useful and substantial in the prosecution of other crimes, then, at that point, the Government *may* opt to move for a sentence reduction under Rule 35. However, at this point, Defendant is not entitled to the requested relief. Defendant’s motion, therefore, is without merit.

IT IS THEREFORE ORDERED that Defendant’s Motion for Sentence Reduction is hereby DENIED.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

July 9, 2007

Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this Order within ten (10) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified within Rule 4, will waive the right to appeal.